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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Item 4 of the provisional agenda
Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the combined fourth and fifth periodic reports of Switzerland

Reservations and legal status of the Convention

1. With reference to the Committee's previous recommendations (CEDAW/C/CHE/CO/3, para. 16), please provide updated information about whether the issue of direct applicability of the Convention has been further clarified. With reference to the State party's combined fourth and fifth periodic reports, please also provide an update on the steps taken or envisaged to withdraw the State party's remaining reservation to article 15 (2) and article 16 (1) (h) of the Convention (para. 172).[1]

Constitutional, legislative and institutional framework

2. It is indicated that the Federal Supreme Court analysed in detail the country's obligations arising from article 2 (a) of the Convention and from the Committee's concluding observations (para. 15). Please clarify the scope of the definition of discrimination and equality applied by the Court and whether it entails a reversal of the Court's previous jurisprudence stating that the "Constitution does not confer any right to establish equality in fact" (see CEDAW/C/CHE/CO/3, para. 17).

3. The Committee notes that an interdepartmental working group under the Federal Office for Gender Equality was created to support the implementation of the Committee's recommendations and that an internal action plan for the Administration was adopted, which sets out objectives and priorities, identifies action to be taken and ensures regular monitoring of the implementation of the

Note: The present document is being circulated in English, French and Spanish only.

[1] Unless otherwise indicated, paragraph numbers refer to the combined fourth and fifth periodic reports of the State party.

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commitments under the Convention (paras. 14 and 16). Nevertheless, it is acknowledged that the implementation of the Convention is limited in the State party (para. 18). Please provide information on the results of the measures taken to implement the Convention and whether any evaluation and remedial action is envisaged. Have any specific measures been taken, or are any envisaged, to address disparities in the implementation of the Convention across the different cantons and communes, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 20)? In addition, please provide an update on the outcome of the assessment on how to improve the gender analysis of draft legislation (para. 22).

4. Please provide information on the outcome of the analysis of existing anti-discrimination standards in the State party and the study on access to justice in discrimination cases (para. 19) and on whether any remedial action has been taken or is envisaged on the basis of the findings of the study. Please also indicate whether lawyers, judges and all other actors of the justice system are systematically provided with capacity-building with regard to the Convention and the Optional Protocol thereto and whether the Convention has been invoked in courts, apart from the ruling of the Federal Supreme Court in 2011 mentioned in paragraph 15 of the report. If it has, please specify the number, nature and outcome of the cases.

National machinery for the advancement of women

5. Please indicate the measures taken to ensure that the various institutional structures for the advancement of women and gender equality, including the Federal Office for Gender Equality, the Federal Commission for Women's Issues and gender equality offices in cantons and communes, enjoy greater authority and visibility and have adequate human, financial and technical resources to work effectively at all levels, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 22). What specific measures have been taken to strengthen coordination between all relevant institutional structures and mechanisms at all levels? Please also inform the Committee about the current status of the Swiss Centre of Expertise in Human Rights (para. 12) and indicate whether the State party has taken or envisages taking steps to establish an independent national institution with a broad mandate in the area of human rights, including women's rights and gender equality, in accordance with the Paris Principles.

6. The Committee notes that the 2011-2015 Legislature Plan is the first to contain a guideline on equality between women and men (para. 5) and that several strategies for the promotion of equality exist at the cantonal level (para. 8). Please provide information on any steps taken to adopt an overall integrated strategy for gender mainstreaming, including gender budgeting, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 22). Please provide information on results achieved in implementing the 2011-2015 Legislature Plan in relation to gender equality and on whether the State party intends to continue with such guidelines in the next iteration. Please also inform the Committee about the results of the study carried out in 2014 on the progress of the implementation of the action plan on quality between women and men adopted in 1999 by the Federal Council (para. 7). Furthermore, please indicate whether the State party has assessed gender budgeting, including in the cantons, and elaborate on why the Federal Council decided not to implement it (paras. 28-29).

Extraterritorial obligations

7. According to information before the Committee, there are several examples of activities of Swiss companies operating abroad having a negative impact on the human rights of women. Please provide information on the regulatory framework for industries and companies operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental, labour and other standards, especially those relating to women's rights. Please further provide information on the measures taken to ensure that the State party's tax and financial secrecy policy does not contribute to large-scale tax abuse in foreign countries, thereby having a negative impact on resources available to realize women's rights in those countries.

Temporary special measures

8. Please provide information on any temporary special measures, including quotas, taken or envisaged by the State party to accelerate the achievement of substantive equality of women and men in all areas covered by the Convention, in addition to a women's quota of 30 per cent for the membership composition of extra-parliamentary commissions (para. 32) and for governing bodies of companies and institutions closely connected with the Federation (para. 110). Please also elaborate on the measures developed by the Federal Council to rectify the continued underrepresentation of women in extra-parliamentary bodies (para. 32) and provide information on the outcome of the debate on women's quotas at the cantonal and communal levels (para. 113).

Stereotypes and harmful practices

9. Please elaborate on the measures taken to eliminate stereotypical images and attitudes regarding the roles of women and men in the family and in society and how those efforts are coordinated among the cantons, as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 26). What has been the result of the analysis of the use and discriminatory consequences of stereotypes in legislation and jurisprudence in the fields of training and work (para. 41)? Please also provide information on the impact of the programmes on gender stereotypes carried out in schools (para. 42) and on whether targeted programmes to encourage further diversification of the educational choices of boys and girls and enhanced sharing of family responsibilities exist in all cantons. Please specify the measures taken to address the stereotyped portrayal of women, including women belonging to minority groups and migrant women, and transgender persons in the media.

10. Please provide information on the results achieved to date in implementing the Federal Act on Measures against Forced Marriages and the federal programme to combat forced marriage during the period 2013-2017 (paras. 68-69). Please also provide further information and data, disaggregated by age and region, on the prevalence of female genital mutilation in the State party, including on the number and outcome of investigations and court cases, and elaborate on the specific prevention and awareness-raising efforts undertaken to tackle the issue (para. 73).

Violence against women

11. Please update the Committee on the steps taken or planned towards the enactment of comprehensive legislation on all forms of violence against women,

including the legislative work concerning motion 12.4025 (Keller-Sutter: "To better protect victims of domestic violence") (para. 61). In that context, please explain the progress made in explicitly prohibiting all forms of corporal punishment in all settings, as recommended by the Committee on the Rights of the Child (see CRC/C/CHE/CO/2-4, para. 39). Please also provide information on the results of the respective studies and on any measures taken or envisaged to better support victims of domestic violence, increase the reporting rate of victims of violence, including sexual violence, and develop a threat management system in domestic violence situations (paras. 60-62). Does the State party intend to extend those efforts to other situations of violence? Please expand on the training activities and programmes for parliamentarians, the judiciary, public officials, law enforcement personnel and health-service providers to ensure that they are aware of all forms of violence against women (para. 63) and provide updated data on violence against women, disaggregated by age, type of offence and relationship between the victim and the perpetrator (para. 53). In addition, please also indicate the steps taken to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Trafficking and exploitation of prostitution

12. Please provide information on the scope and content of the National Action Plan against Trafficking in Human Beings for the period 2012-2014, as well as the results of its implementation and whether the State party has adopted or plans to adopt a new action plan (para. 45). In the light of the Committee's previous recommendations (CEDAW/C/CHE/CO/3, para. 30), please also elaborate on the assistance and services provided to victims of trafficking, in particular on the resources allocated, whether additional services have been established in all cantons and how effective coordination is ensured. Moreover, the State party indicates a paradigm shift in cases of suspected trafficking, stating that victim protection takes precedence over the implementation of measures under the Foreign Nationals Act (para. 47). Please elaborate on the applicable legal framework in that regard and on the measures taken to ensure uniform and consistent practices in all cantons.

13. Please provide information on the applicable legal and policy framework and on measures currently in place to prevent the exploitation of women and girls in prostitution, including the outcome of the report on how women in prostitution could be better protected against exploitation and trafficking (para. 52). Please also indicate whether measures exist to support women in prostitution who wish to have alternative means of livelihood. In addition, please elaborate on the protective measures taken for women affected by the abolishment of the status of "cabaret dancer" (para. 51).

Participation in political and public life

14. According to information before the Committee, after the federal elections held in October 2015, women comprised only 15.2 per cent of the members of the Council of States and 32 per cent of the members of the National Council, with the proportion of women in the Government at 28.5 per cent. Women's representation is at similar levels in cantonal parliaments and governments. In the light of the Committee's previous concluding observations (CEDAW/C/CHE/CO/3, para. 34), please elaborate on the specific measures taken to accelerate an increase in the representation of women in political and public life, in particular in the parliament

and other decision-making bodies, academic institutions, the diplomatic service and the judiciary at the federal and cantonal levels. Please indicate whether the State party has established benchmarks and specific timetables to achieve those goals. Please also provide information on the outcome of the media analysis regarding women's participation in advance of the federal elections (para. 76).

Education

15. Please provide updated disaggregated data on the prevalence of sex segregation in vocational education and higher education (para. 83), together with updated information on the measures taken to eliminate it. Please also provide information on the status of implementation, including any results achieved, of the "Equal Opportunity for Women and Men at Universities/Gender Studies 2013-2016" Programme and the Federal Administration's "Equal Opportunity at Universities of Applied Sciences" Programme 2013-2016 (paras. 91-92). Please also elaborate on the findings of the Gender Equality National Research Programme, which has funded 21 projects investigating the causes of persistent discrimination in the family, in the training system and in working life, and any measures taken on the basis of those findings (para. 93).

Employment and economic empowerment

16. Please provide information on the unemployment rate of women and women in precarious work and the employment rate of migrant women and women with disabilities. In view of the persistent gender pay gap (para. 116), please elaborate on the findings of the study on national mechanisms adopted to implement wage parity and the new government measures taken to combat wage discrimination in the State party (para. 129) and provide an update on any steps taken to introduce paid paternity leave (para. 144), as previously recommended by the Committee (see CEDAW/C/CHE/CO/3, para. 38). Please also provide information on any steps taken or envisaged to ensure that unpaid care work is given appropriate consideration in the draft pension scheme reform for 2020 (para. 149) and to address discrimination against part-time employees in the assessment of invalidity insurance, which affects women for the most part. According to information before the Committee, voluntary efforts to increase the representation of women in decision-making and managerial positions in companies have not had the desired effect. Please indicate whether the measures taken to date to increase their representation have ever been assessed and, if they have, specify the results. In that respect, please also indicate whether there are part-time job possibilities in high-level decision-making positions.

Health

17. It is indicated that the findings of the health survey conducted in 2012 pointed to persistent gender differences in such health determinants as diet, tobacco and alcohol abuse, and health status and risks in the State party (para. 155). Please provide information on any measures taken to address those differences and include specific information on the health needs of women with disabilities. Please also supply information on whether age-appropriate education on sexual and reproductive health and rights is provided systematically in all cantons. Please also inform the Committee about the prevalence of HIV/AIDS among women in the State party and the measures taken to address the issue. Furthermore, please provide

information on the measures taken to ensure that transgender persons are not forced to undergo involuntary medical treatment, such as hormonal or surgical sterilization, as a requirement for legal gender recognition and on the costs and reimbursement scheme for gender reassignment treatment.

Rural women, refugee and asylum-seeking women and other disadvantaged groups of women

18. In line with its general recommendation No. 34 (2016) on the rights of rural women, please update the Committee on the results of the 2015 report focusing on women's economic, social and legal status in the agricultural sector and any measures taken or envisaged to address the Committee's previous concluding observations on the situation of rural women in the State party (CEDAW/C/CHE/CO/3, para. 40).

19. The report is silent on the situation of asylum-seeking and refugee women and girls in the State party. Please provide information on measures taken to guarantee compliance with the international obligations of the State party towards women and girl refugees and asylum seekers, including the protection of their fundamental rights and the provision of basic services, and training and guidelines for law enforcement officials and border guards on their gender-sensitive treatment, at all stages of the asylum procedure.

20. The Committee notes the measures taken to encourage the integration of migrant women in the State party (paras. 35-39). In the light of the current social and political context, which is characterized by an increasing number of acts of a racist, xenophobic and islamophobic nature, please provide information on measures taken or envisaged to combat all forms of discrimination against women belonging to minorities, including Traveller communities and the Yenish, Manush/Sinti and Roma, migrant women and undocumented women, and to ensure their adequate access to training and employment, social security and social services, housing, health and education. The Committee also notes the revision of the Federal Act on Foreign Nationals in July 2013, providing for the right of victims of marital violence to remain in the State party (para. 65). Please comment on the requirement that the level of violence must reach a certain threshold of severity for the benefits of the Act to apply.

Marriage and family relations

21. It is indicated that, following amendments of 1 July 2014, joint parental authority, irrespective of the parents' civil status, is the rule in cases of divorce (para. 173). Please indicate whether and how considerations of gender-based violence against women in the domestic sphere are taken into account when ruling on child custody and visitation rights. Please also provide an update on the draft regulations on child maintenance, including whether they address the issue of deficit sharing and establish a minimum level of maintenance, and on the planned amendment to the regulations in force on pension splitting in the event of divorce ("divorced widow problem") (paras. 174-175). In addition, please provide additional information concerning the measures taken or envisaged to establish an individual taxation system for married couples and clarify the content of the Federal Act on Tax Relief for Families with Children regarding the possibilities of deducting childcare costs for married couples with two incomes, specifying any existing differences between the cantons (para. 25).